

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)
)
PUBLIC UTILITIES COMMISSION) Docket No. 2009-0108
)
Instituting a Proceeding to Investigate)
Proposed Amendments to the)
Framework for Integrated Resource)
Planning.)
_____)

PUBLIC UTILITIES
COMMISSION

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HAWAII SOLAR ENERGY ASSOCIATION'S
RESPONSE TO INFORMATION REQUESTS

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HAWAI'I SOLAR ENERGY ASSOCIATION'S
RESPONSE TO INFORMATION REQUESTS

COUNTIES OF HAWAI'I, KAUAI AND MAUI'S INFORMATION REQUESTS

COUNTIES-HSEA-IR-1

REF: HSEA PSOP Attachment A. E. 1.b.i.

Please explain your rationale and justification for the government advisory group member being either the Mayor of the county in which the utility in question provides service (or conducts business) or the mayor's designee? Does this limit the county to having just one member on the advisory group?

RESPONSE:

The purpose of specifying that the governmental members of an advisory group "shall include . . . the mayor of the county in which the utility in question provides service (or conducts business) or the mayor's designee" is to designate an official representative of the county as an advisory group member, in recognition of the important role of the counties in the planning process. (Note that the language "provides service (or conducts business)" makes clear that a county shall be represented on an advisory group if the utility conducts business in the county without necessarily providing service -- the most obvious example being an O'ahu utility receiving power from a facility on a neighbor island.)

This would not limit a county to having just one member on an advisory group. The Commission would be able to select additional county representatives as advisory group members. The language and intent establishes a necessary minimum, not a limit.

COUNTIES-HSEA-IR-2

REF: HSEA PSOP Attachment A.E.Lb.iv

Please explain the role of the independent facilitator for each advisory group. If there is an independent facilitator, who pays for the facilitator and how is the facilitator selected?

RESPONSE:

The role of the independent facilitator is to chair the advisory group. This would involve chairing the actual meetings and may also include providing necessary administrative support and serving as a liaison between the advisory group and the utilities and the Commission.

An independent facilitator would help make the advisory groups, and utility planning in general, more independent of the utilities both in fact and (equally importantly) appearance. This addresses previous criticisms that “the IRP process, including the public advisory group process, is controlled entirely by the utilities” and “has become largely a utility exercise.” HSEA’s Preliminary Statement of Position (“HSEA PSOP”) at 16 (quoting C. Freedman & J. Lazar, Hawaii Energy Utility Regulation & Taxation: Practice, Policy & Incentives for Energy Efficiency, Renewable & Distributed Energy Resources: A Report for the Hawaii Energy Policy Project 87 (2003)). It also conforms with the National Regulatory Research Institute’s (“NRRI’s”) observation that, since scenario planning in particular requires participation of “more than the customary players,” “a neutral facilitator seems necessary.” NRRI, Clean Energy Scenario Planning: Thoughts on Creating a Framework 10 (2009) (“NRRI paper”).

The utilities could fund the independent facilitator, with reimbursement through the available cost recovery mechanisms. Alternatively, the state or Commission could fund the independent facilitator, which may further enhance the position's independence. The Commission would select the facilitator based on relevant qualifications, including experience in group facilitation and knowledge of utility regulation, and preferably grounding in Hawai'i (both in terms of physical presence and community understanding).

HAWAIIAN ELECTRIC COMPANIES INFORMATION REQUESTS

HECO/HSEA-IR-1

Ref: The Need For Clear And Purposeful Planning Objectives and Principles And Transparent Analysis

On page 10, HSEA proposes “additional principles such as: prioritizing and facilitating increased distributed generation over centralized generation; and prioritizing energy resources so that future energy needs are, to the maximum extent possible, met first with energy efficiency and conservation programs, demand response, and renewable energy resources.” Further HSEA states that “clean energy planning also warrants analysis of costs and benefits and a determination of optimum and alternative mixes of resources.”

- a. Please explain the distinction between “distributed generation” and “centralized generation”. For example, in which category would a third-party owned wind farm fall?
- b. Please explain why distributed generation, which could be fossil-fuel fired, should be given a favored status over other supply-side resource options, which could be renewable energy resources or required to reliably integrate more renewable resources, via a Governing Principle?
- c. Please elaborate on how the planning process would determine the “optimum and alternative mixes of resources” if they are prioritized per the proposed additional principles.

RESPONSE:

- a. The distinction is unrelated to the ownership of the resource. Rather, it depends on the level at which the resource (in this example, a wind farm) is interconnected to the utility grid. If the resource is interconnected at the transmission level it would be “centralized.” If it is interconnected at the distribution level it would be “distributed.”
- b. This question misreads HSEA’s proposal, which also emphasizes that future energy needs be met “to the maximum extent possible” by “energy efficiency and conservation programs, demand response, and renewable energy resources.” The point is that distributed renewables would have priority over centralized renewables, not that

distributed fossil-fuel generation would trump centralized renewables. A framework for clean energy planning should recognize the need for and benefits of distributed generation in promoting energy security and achieving a clean energy future. We note that other parties have proposed such a preference for decentralized generation over centralized generation, including the Department of Business, Economic Development & Tourism of the State of Hawai'i.

c. Initially, HSEA reviews the context of this discussion, in which we raised concerns about the Hawaiian Electric Companies' proposal to delete all provisions in the IRP Framework relating to "objectives," including those relating to the analysis and optimization of resources based on the objectives. See HSEA PSOP at 10. We observed:

Notwithstanding the HECO Companies' suggestion that clean energy planning is fundamentally different from IRP, it remains unclear why CESP should abandon these basic planning functions. Presumably, clean energy planning also warrants analysis of costs and benefits and a determination of optimum and alternative mixes of resources.

Id. Based on further review of the scenario planning concept, including our response to the NRRI paper, we reiterate this statement and observe that even "scenario planning" requires optimization of a "least-regrets" plan.

As for how the planning process would determine the "optimum and alternative mixes of resources" per additional principles, please see the response to the previous question. Whether under an IRP or scenario planning approach, the planning process would develop an "optimum" plan and also address contingencies and alternatives. The proposed governing principles would guide the planning process by establishing a priority or preference for renewable and distributed energy generation.

HECO/HSEA-IR-2

Ref: Public Participation

On page 17, HSEA proposes that the "Commission should organize the advisory groups and a facilitator independent of the utilities should chair each group." Please discuss whether it is envisioned that the Commission would develop and use selection criteria for organization of the advisory group, and, if so, what the criteria would be.

RESPONSE:

Presumably, the Commission would have some criteria to determine who should be on the advisory group, which it may develop at its discretion. The proposal does not suggest criteria other than to emphasize the need for broad-based participation, include certain governmental members by designation, and require relevant expertise where necessary and appropriate. We are open to suggestions on any additional criteria.

HECO/HSEA-IR-3

Ref: Public Participation

On page 17, HSEA proposes that "there should be a rebuttable presumption that the advisory groups' recommendations – which are based on the expertise of the groups' members - are justified, and the utilities should bear the burden of overcoming that presumption to justify scenarios or plans at odds with those recommendations."

- a. Is HSEA proposing that the advisory groups provide all the necessary inputs required for the scenario analysis that the utility would perform?
- b. What are HSEA's proposed processes to determine whether or not a candidate advisory group member has "expertise" in one or more resource planning topics? Would an advisory group member with expertise in one topic be able to have a "vote" or be able to state a view on another topic in which their expertise has been established?
- c. Is HSEA willing to share with the utility and other advisory group members project cost data and market potential data to be used in the IRP process?

RESPONSE:

- a. Not necessarily. The proposal envisions that the Commission may organize or direct advisory groups to address whatever questions the Commission deems appropriate. Also, advisory groups may recommend specific scenarios, assumptions, or other inputs for the utility's analysis.

b. See response to “a” above. The Commission would form the advisory groups and specify their subject areas. In selecting members of advisory groups on technical matters requiring expertise, the Commission would determine and apply the qualification requirements. Such an inquiry is no different than in other contexts, wherein decisionmakers determine whether a particular expert is qualified to opine on a given topic. We note that, even in a court of law, this threshold is very low. See generally Haw. R. of Evid. 702.

HSEA emphasizes, as noted in the NRRI paper and in our response to COUNTIES-HSEA-IR-2, scenario planning especially requires broad-based participation and input into the process. No particular expertise should be required to make non-technical planning and policy recommendations, e.g., whether the planning analysis should include “peak oil” or “interisland cable/no interisland cable” scenarios. In that regard, the condition that advisory groups recommendations must be “based on the expertise of the groups’ members” to establish a rebuttable presumption of being justified may be too limiting on the advisory groups’ input. Please also see our response to HECO/HSEA-IR-4.

c. As a non-profit industry association, HSEA does not itself possess this information but will work with its member companies to provide it.

HECO/HSEA-IR-4

Ref: Public Participation

On page 18, HSEA states its concern that HECO's proposal grants the utilities exclusive responsibility over a wide range of forecasts, analysis, assumptions and other important groundwork for the planning process. HSEA states that the public, including outside experts, and the Commission should be allowed to engage in these aspects of planning to ensure the development of the best information through an open public process. Further, HSEA states that the public, outside experts as well as the Commission would have "no apparent opportunity to provide input in the utilities forecasts..." Is HSEA in favor of reinstituting Advisory Group Technical Committees as was done for HECO's IRP-3 process?

RESPONSE:

As explained in our preliminary statement, HSEA is in favor strengthening the provisions in the planning framework to "increase public transparency, accountability, and responsiveness in the process, including early and regular opportunities for public and outside expert participation and input and Commission oversight." HSEA PSOP at 16. All critical points in the planning process should have the benefit of such participation and input. As an example, HSEA raised the forecasts of distributed generation, on which HSEA has particular insight. Id. at 18.

While HSEA was not a party to the IRP-3 process, we understand that concerns arose over the transparency and inclusiveness of Advisory Group Technical Committees. HSEA proposes that there is a role for such technical committees or technical advisory groups, which enable independent review of and input into technical aspects of the utility's analysis. Such bodies, however, should be formed for specific purposes actually requiring expertise and should be as inclusive in their membership and open in their deliberations as possible. Ultimately, technical advisory committees

or groups should help make the planning process more, and not less, accessible and accountable. Please also see our response to HECO/HSEA-IR-3.

HECO/HSEA-IR-5

Ref: NRRI Comments – III. Who Are the Appropriate Participants in a CESP Process
On page 10, NRRI envisions many participants in the CESP process and states “With this diversity of participants, a neutral facilitator seems necessary.” If the HECO Companies were to propose in the CESP Framework that the CESP process would have a neutral facilitator (similar to the role of an Independent Observer under the Framework for Competitive Bidding) leading all Advisory Committee meetings, public hearings, and observing the utilities’ technical analyses, would that be an acceptable means for addressing the concerns over public participation and transparency in the CESP process?

RESPONSE:

HSEA proposes a neutral facilitator as one step to address concerns over public participation and transparency in the planning process. See HSEA PSOP at 17. A neutral facilitator or independent observer alone, however, would not fulfill the need for advisory groups to remain fully independent and exercise a meaningful role, and for the planning process to maximize openness and public participation. To address these concerns and needs, HSEA’s preliminary statement outlines additional proposed improvements of the public participation provisions in the planning framework. See id. at 15-19.

LIFE OF THE LAND INFORMATION REQUESTS

LOL-IR-13 [There should be a rebuttable presumption that the advisory groups' recommendations - which are based on the expertise of the groups' members - are justified, and the utilities should bear the burden of overcoming that presumption to justify scenarios or plans at odds with those recommendations. pg 17

(A) Should non-utility intervenors have to face the same burden, that is, that there is a presumption of need for advisory group recommendations? If not, why not? Please elaborate.

(B) If non-utility intervenors face the same burden, then

(1) What is to prevent the utility from stacking advisory groups with utility friendly members?

(2) What is to prevent the utility from persuading advisory group members to vote against certain proposals by individual members of the advisory group?

(3) Should advisory groups be subject to sunshine laws?

(e) Who determines the expertise of the groups' members?

(4) Should the Commission not allow intervention in Applications by those who had the opportunity to persuade the Advisory Group on a proposal but failed to do so? Would your answer change if the Advisory Group Issued a recommendation in direct opposition to that potential intervenor?

(5) What type of groups (issues oriented advocacy group, agencies, and trade groups) should be guaranteed a seat on the Advisory Group?

RESPONSE:

(A) No. To clarify, HSEA does not propose that advisory group recommendations create any "presumption of need." The Hawaiian Electric Companies' proposal seeks to establish a presumption of need for the preferred resources in its plan, to which HSEA has made clear its opposition because the planning process is not the place for predetermining the need for individual resources. See HSEA PSOP at 14-15.

In response to criticisms of the utilities' lack of obligation and past failures to incorporate the advisory groups' advice, HSEA proposed that the utility should bear the burden of justifying scenarios or plans at odds with advisory group

recommendations. See id. at 17. Since the advisory group deals directly and solely with the utility in making these recommendations, this burden would not apply to other parties. In other words, non-utility parties (and the Commission) would not be beholden to utility positions based on advisory group recommendations.

(B) While the previous negative answer appears to make these questions moot, we note that the proposed language itself may answer many of them. Specifically regarding the question on the sunshine laws, our research has revealed no authority for subjecting the advisory groups to these laws, although we believe this issue is immaterial to the merits of the proposal. We welcome any further discussion on this and other proposals.

HAWAII RENEWABLE ENERGY ALLIANCE INFORMATION REQUESTS

HREA-IR-1. In its Preliminary Statement of Position ("PSOP"), HREA proposed a set of governing principles that were broken down into the three following categories: overall, resource selection and acquisition, and IRP process. These proposed principles are listed below without the explanatory text that was included in our PSOP, and edited for clarity:

- Overall IRP Goals are to:
 - o Meet forecasted electrical energy demand (MW, MWHs) via demand- and supply-side resources over the IRP period.
 - o Identify and meet state energy objectives, and comport with state and county environmental, health, and safety laws by formally adopting state and county plans.
 - o Maintain and enhance electrical system reliability, safety and security to facilitate state energy objectives and policies.
- Resource Acquisition and Operation to:
 - o Establish and maintain a "no regrets policy" for resource acquisition, e.g., energy efficiency, conservation, renewables and storage.
 - o Phase out conventional fossil facilities.
 - o Establish and maintain preferred acquisition methods, e.g., net metering, feed-in tariffs, competitive bidding and non-bid contracts.
 - o Prioritize implementation of distribution generation over central generation.
 - o Design, modify, and operate the utility system to maximize the use of clean energy resources,
 - o Mitigate power outages after catastrophic events.
- IRP Process will include:
 - o Ongoing, open, transparent, efficient and nimble.
 - o Clear definition of roles, responsibilities and legal standing of all IRP participants.
 - o A basic plan for a period of 20 years with an action plan of five or more years, annual reviews and flexible periods for major revisions every three to five years.
 - o One plan for each island utility and an overall plan for the island chain,
 - o Incorporation of appropriate analytical methodologies, such as discounted lifecycle analysis and clean energy scenario planning.
 - o Consideration of the plans' impacts upon the utility's consumers, the environment, local culture, community lifestyles, the State's economy, and society in general.
 - o All Parties' recovery of a portion up to all costs of their participation in IRP.

That said, do the Parties support the governing principles as proposed above? Given that HREA is seeking to establish the level of support for each of the principles, please respond with detail as to:

1. Those principles that can be supported (with or without comments), and
2. Those principles that cannot be supported (with comments).

Finally, the Parties are asked to suggest additional principles, as appropriate, with supporting comments.

RESPONSE:

While HSEA maintains that such questions regarding the parties' support for general principles are best addressed via the parties' ongoing discussions and preliminary and final statements of position and, therefore, declines to adopt any definitive positions at this time, we offer the following specific comments on the proposed principles. For more information on HSEA's position, please refer to our preliminary statement of position and response to the NRRI paper.

- "Overall IRP Goals": As explained in HSEA's preliminary statement, amorphous language such as "[i]dentify and meet state energy objectives" fails to provide the necessary strategic direction for effective clean energy planning. HSEA PSOP at 8-11. The proposed language, however, makes an important point in conceiving "system reliability, safety and security" as not an end in itself, but a means to facilitate other goals.
- "Resource Acquisition and Operation": HSEA has expressed support for principles governing resource acquisition such as: "[p]hase out conventional fossil facilities"; "[p]rioritize implementation of [renewable] distribution generation over central generation"; and "[d]esign, modify, and operate the utility system to maximize the use of clean energy resources." See HSEA PSOP 10. We have questions about the meaning and practical application of a "no regrets policy" and thus take no position on this principle pending further information and discussion.
- "IRP Process": HSEA has stated our position on the scenario planning concept in response to the NRRI paper. We take no position on the specifics of the proposed planning timeframes. We are interested in the concept of a state-wide plan, but have questions on the details, including who would be responsible for developing that plan and how it would

work within the larger IRP Framework and in relation to the utility-specific plans.

DATED: Honolulu, Hawai'i, November 25, 2009.

A handwritten signature in black ink, appearing to read 'Isaac H. Moriwake', written over a horizontal line.

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BEFORE THE PUBLIC UTILITIES COMMISSION
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CERTIFICATE OF SERVICE

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